

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ANTONIO MANNING #428613,

Plaintiff,

No. 09-CV-13840-DT

vs.

Hon. Gerald E. Rosen

D. DOLCE, et al.,

Defendants.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION AND DENYING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT FOR FAILURE TO EXHAUST

At a session of said Court, held in
the U.S. Courthouse, Detroit, Michigan
on September 8, 2010

PRESENT: Honorable Gerald E. Rosen
United States District Chief Judge

This prisoner civil rights matter having come before the Court on the July 12, 2010 Report and Recommendation of United States Magistrate Judge Mark A. Randon recommending that the Court deny Defendants' February 17, 2010 Motion for Summary Judgment, finding that, contrary to Defendants' allegations, Plaintiff had exhausted his prison grievance remedies before filing this lawsuit;¹ and no timely objections to the Magistrate Judge's Report and Recommendation having been filed; and the Court having reviewed the

¹ Failure to exhaust was the sole ground upon which Defendants' motion was predicated. Since the Magistrate Judge's entry of his R&R, Defendants have filed a second motion for summary judgment on the merits. This second dispositive motion is presently pending before Magistrate Judge Randon.

Magistrate Judge's Report and Recommendation, and the Court's file of this action and having concluded that, for the reasons stated in the Report and Recommendation, Defendants' summary judgment motion should be denied; and the Court being otherwise fully advised in the premises,

NOW, THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report and Recommendation of July 12, 2010 [**Dkt. # 34**] be, and hereby is, adopted by this Court.

IT IS FURTHER ORDERED that, for the reasons set forth in the Magistrate Judge's Report and Recommendation, Defendants' February 17, 2010 Motion for Summary Judgment [**Dkt. # 28**] be, and hereby is, DENIED.

s/Gerald E. Rosen
Chief Judge, United States District Court

Dated: September 8, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on September 8, 2010, by electronic mail and upon Antonio Manning, 5805 Orchard Court, Apt #8, Lansing, MI 48911-5217 by ordinary mail.

s/Ruth A. Gunther
Case Manager